

In the Matter of Unbundled	)	
Access to Network Elements	)	
	)	WC Docket No. 04-313
Review of the Section 251	)	CC Docket No. 01-338
Unbundling Obligations of	)	
Incumbent Local Exchange Carriers	)	

Comments of John Elias Baldacci, Governor of the State of Maine

The Governor of Maine submits these comments in support of the filing made October 4, 2004 in the above-captioned dockets by USA Telephone (hereinafter "USA"). USA has made a request of special significance in a state as rural as Maine with a low-density distribution of its population of 1.2 million. USA has requested that it, and similarly-situated competitive local exchange carriers (CLEC's) of 50,000 access lines or less, be permitted to continue their existing access to UNE-P, notwithstanding recently-decided rules of the Commission, with pricing to continue at total element long-run incremental cost (TELRIC). USA has requested that this self-described "carve-out" of the unbundling rules for CLEC's for carriers with 50,000 access lines or less be made permanent.

We support USA's request for the following three reasons. First, Maine relies heavily on telecommunications infrastructure as an essential element of economic development strategies for the State. In a rural state, businesses and residential customers alike depend on access to an affordable public switched telephone network and to affordable long-distance services. Based on bi-annual reviews of comparative intrastate and interstate toll plans available to residential and business customers whose calling volumes are small to moderate in Maine that are prepared by our Office of Public Advocate, there are not many such low-cost calling plans. USA offers such a plan. USA's calling plans have been important therefore as a device for maintaining affordable access to the long-distance network for many Mainers and businesses in Maine.

Secondly, USA's petition envisions that the requested "carve-out" or exemption from UNE-P phase-out terminate at such time as the CLEC serves more than 50,000 access lines. Such a requirement will ensure fairness in providing that all large multi-state players remain subject to the same set of rules while only very small, local or regional CLEC's receive an exemption. We see this as a reasonable and administratively manageable requirement.

Finally, due to recent actions of the federal Court of Appeals for the District of Columbia Circuit, as well as potential future action by the courts or Congress, there is at present very significant uncertainty regarding the rules governing CLEC operations and their reliance on the network facilities of incumbent exchange carriers. These uncertainties have a particularly forceful impact on small CLEC's with 50,000 or fewer access lines because in many cases their access to capital for expansions of service or upgrades of infrastructure entirely depends on UNE-P. It appears reasonable to us to account for the disproportionate impacts of these regulatory uncertainties on investment in rural areas by the smallest CLEC's by grandfathering the existing UNE-P rules upon which their investment has relied and still relies.

Thank you for your attention to these comments. We urge your consideration of USA's October 4 filing and the request for continued access to UNE-P pricing policies which it has made.

Sincerely,

John Elias Baldacci  
Governor